

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TYLER S. PHILLIPS,

Plaintiff,

v.

No. 20-cv-0107 WJ/SMV

CURRY COUNTY DETENTION CENTER,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten letter filed by Tyler S. Phillips on February 5, 2020. [Doc. 1]. The Court determines that the pro se filing is deficient because it is not in proper form or signed under penalty of perjury by Plaintiff, and Plaintiff has neither paid the \$400 filing fee nor been granted leave to proceed without paying the filing fee.

Plaintiff's filing consists of a four-page letter and attached Curry County booking records. *Id.* The letter appears to claim that Plaintiff was kept in custody by the Curry County Detention Center beyond his release date. The letter alleges "I Tyler S Phillips was release Aug-3-2015 after doing 2 month's over my release date June-4-2015." *Id.* at 4. Plaintiff's filing appears to assert a prisoner civil rights claims under 42 U.S.C. § 1983. *See id.* at 1–4. A civil rights complaint under § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. *See Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under § 1983). The filing is not in proper form to assert civil rights claims and is not signed under penalty of perjury as required by Fed. R. Civ. P. 11(a).

In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has not paid the \$400.00 filing fee or submitted an application to proceed under § 1915.

Plaintiff must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within 30 days of entry of this Order. Plaintiff must include the civil action number **20-cv-0107 WJ/SMV** on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within 30 days, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that, **no later than March 9, 2020**, Plaintiff Tyler S. Phillips cure the deficiencies by (1) paying the \$400 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs (Long Form) and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915 (Long Form), with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge